

**MINUTES OF THE
HOUSE AND SENATE RULES COMMITTEES MEETING JOINTLY**

August 23, 2006 – 1:00 p.m. Room W135 House Building

Members Present:

Sen. Michael Waddoups, Chair
Rep. Rebecca Lockhart, Chair
Sen. D. Chris Butters
Sen. Sheldon L. Killpack
Sen. Ed Mayne
Sen. Carlene M. Walker
Rep. Stephen D. Clark
Rep. John B. Dougall
Rep. James B. Dunnigan
Rep. Neal B. Hendrickson
Rep. Todd E. Kiser
Rep. David Litvak
Rep. Ann W. Hardy

Members Absent:

Sen. Curtis S. Bramble
Sen. Gene Davis
Sen. David L. Thomas
Rep. J. Stuart Adams
Rep. Jackie Biskupski
Rep. Greg H. Hughes
Rep. David Ure

Staff Present:

Mr. John Q. Cannon, Managing Policy Analyst
Mr. John L. Fellows, Deputy General Counsel
Ms. Brooke Ollerton, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Waddoups called the meeting to order at 1:23 p.m.

MOTION: Sen. Mayne moved to approve the minutes of the December 29, 2005 meeting. The motion passed unanimously with Sen. Walker and Rep. Dunnigan absent for the vote.

2. Recodification of Joint Rules

Mr. Fellows explained that the recodification focused on the basics of the joint legislative process. Most changes were structural or formalized practices in rules. He discussed with the Committees the changes in Chapter 1 regarding definitions, bill format, sponsorship, effective dates, distribution of resolutions, and formatting.

He highlighted JR 4-1-303, Distribution of Resolutions, explaining that the responsibility for distributing resolutions calling upon Congress for action is not specifically assigned in this section. Currently, Legislative Printing mails them, but budget problems arise if resolutions need to be sent internationally. He recommended assigning someone the affirmative responsibility.

Rep. Clark suggested that staff from the resolution's originating body assume the responsibility.

MOTION: Sen. Butters moved to direct staff to adopt wording indicating that the staff of the originating body of a resolution be responsible for sending it to the designated members of Congress and for costs of the mailing. The motion passed unanimously with Rep. Dunnigan absent for the vote.

Mr. Cannon described the changes to Chapter 2, including requests for legislation, prioritization, sponsorship requirements, definitions, substitute bills, replacement bills, and drafting and sponsor approval of legislation.

Rep. Lockhart observed that the language concerning fiscal notes in JR 19.01(2)(c) was unnecessary since fiscal notes are addressed in another section of joint rules.

MOTION: Rep. Lockhart moved to delete JR 19.01(2)(c). The motion passed unanimously with Rep. Dunnigan absent for the vote.

Mr. Cannon highlighted a section, JR4-2-301(3), which required the OLRGC (Office of Legislative Research and General Counsel) to review and approve requests for legislation within three days of the request. He pointed out that this language does not reflect the current practice.

Rep. Clark asked if it was possible to get an estimated return time when requesting a bill so legislators can plan appropriately.

Mr. Fellows indicated that the three-day timetable may have come from an earlier practice of filing requests with the senate secretary and house clerk. He pointed out that most requests don't meet the requirement outlined in subsection (3) because they are not submitted with a complete draft. There are many variables that determine the turnaround time, which makes it difficult for the OLRGC to know when a bill will be drafted.

Chair Waddoups clarified that the three-day requirement only refers to a request submitted with a complete accompanying draft and does not apply to requests in which a legislator only communicates an idea to be drafted into legislation.

Sen. Walker said she too would like a status report indicating an estimate of when a bill would be finished at the time she submits a request.

Chair Waddoups suggested that a time frame could be included on the monthly status sheet given and suggested that it include a date when drafting would begin.

Mr. Fellows said he would pass on the suggestions and mentioned that for the 2007 general session there will be an online tracking process for bills.

Mr. Cannon highlighted JR 4-2-403(ii), which requires the OLFA (Office of the Legislative Fiscal Analyst) to prepare fiscal notes within three days of receiving a bill from the OLRGC unless it is granted an extension. Who would grant the delay is unclear.

Rep. Hendrickson said that OLFA should inform the legislative sponsor of the delay.

Rep. Clark asked if the Rules Committee chairs could be given the responsibility.

Sen. Walker said that she interpreted the rule to require informing someone, not asking for permission. She also requested that legislators be informed which fiscal analyst is drafting their fiscal notes.

Mr. John Massey, Director, OLFA, said that his office can work on making fiscal analysts more available to discuss fiscal notes. The notification letter could also include the name of the analyst who drafted the note. He added that his office completes most fiscal notes in three days and that it is automatically

flagged if a note goes beyond three days. He said that his office works closely with the cochairs of the Executive Appropriations Committee so they might be a useful contact point.

Rep. Dougall suggested putting on the fiscal note the fiscal analyst's name and a notice of when a request for additional information is sent to an agency.

Mr. Fellows said that he would draft the appropriate changes regarding extensions on fiscal notes.

Mr. Cannon referred the Committees to a list of joint rules that were repealed but not included in the recodification on pages 65–67.

Mr. Fellows showed the Committees JR 4-2-502, Reservation of Bill Numbers, and told the Committees that because there may be several different appropriations acts in a year, they may want to reserve more bill numbers for appropriations bills.

MOTION: Sen. Walker moved to reserve all single digit bill numbers for appropriations bills. The motion passed unanimously with Rep. Clark and Rep. Dunnigan absent for the vote.

Mr. Fellows asked if the Committees wanted specific numbers saved for specific appropriations bills.

Sen. Walker said not to assign specific numbers.

Rep. Lockhart said that JR 4-2-503(2) makes the legislative process more cumbersome because it creates the presumption that if it doesn't have the official backed copy of a bill, a body can't act on it.

Mr. Cannon said that an official copy should probably still exist, but that the electronic process has been streamlined to create more efficiency in the process.

Mr. Fellows said that the requirement of having the official backed copy is an internal check on jurisdiction and the authority to act. Possession of the official copy constitutes authority to act.

Mr. Cannon said that JR 4-2-504(4) seemed to suggest that you can't have identical bills in opposite house, but it does not explicitly say so.

MOTION: Rep. Dougall moved to delete JR 4-2-504(4). The motion passed unanimously with Rep. Clark absent for the vote.

Rep. Dunnigan asked for an explanation of when subsection (4) has been useful.

Mr. Fellows says it has been helpful when debating identical bills simultaneously and when one legislator attempts to duplicate another legislator's bill.

Mr. Cannon said that HR 25.12 states that if there are identical bills, the House Rules Committee shall identify the bills and the bill that was first requested shall be adopted.

Mr. Fellows reviewed changes to Chapter 3.

Rep. Dougall asked what "signed" means in JR 4-3-101(1) and if online approval meets the signature requirement in a request for appropriation.

Mr. Fellows said "signed" means a signature on a hard copy.

MOTION: Rep. Dougall moved to delete "signed" from JR 4-3-101(1).

Rep. Dunnigan said he would prefer to define "signed," instead of striking it.

Mr. Massey said that both legislators and the Executive Appropriations Committee cochairs have been signing a form and that his office could look at making the form available electronically.

Rep. Dougall withdrew motion and asked staff to draft wording to allow automated signing.

Mr. Cannon outlined the changes to Chapter 4 regarding introduction of legislation, reference of legislation, floor action, calendaring bills, and other issues.

Chair Waddoups asked staff to look at the definition of "consider" in JR 4-4-104, Floor Action.

Mr. Cannon replied that in the new rule, to "consider" legislation means to place it on the calendar.

The Committees discussed the requirement in JR 4-4-107 to "certify" legislation when bills are transmitted to the other house. Does it require a formal certification or is the existing signature sheet and information on official backed copy sufficient? Chair Waddoups indicated that the current practice was acceptable and asked staff to present any clarifications in a future meeting.

Chair Waddoups asked if JR 4-4-203, Possession of a Bill, could include electronic possession. He asked staff to look at transmittals being effective only when the bill is read in on the floor.

Mr. Fellows described changes to Chapter 5.

Mr. Fellows suggested the Committees consider deleting the requirement in JR 4-5-102(4)(b)(i) that a bill be transmitted to the governor without delay. He explained that constitutional questions are raised when a bill has been sent to governor and the Legislature wants to recall it. The Legislature has always assumed it could recall, but this assumption may have little legal support. The governor has always complied when requested to return a bill, but he is not required to do so.

MOTION: Rep. Lockhart moved to strike "without delay" from JR 4-5-102(4)(b)(i). The motion passed unanimously with Sen. Buttars, Sen. Killpack, Rep. Clark, and Rep. Dunnigan absent for the vote.

Mr. Fellows said that, in practice, legislators can recall a bill during enrolling and asked if the Committees wanted the practice codified in rules.

MOTION: Rep. Litvak moved to direct staff to draft language to allow legislators to recall a bill during enrolling. The motion passed unanimously with Sen. Buttars, Sen. Killpack, Rep. Clark, Rep. Dunnigan absent for the vote.

Mr. Fellows highlighted a provision in JR 4-5-202, Recalling a Bill from the Governor, and suggested that the Committees strike this rule because it is not clear that the Legislature has legal authority to do this.

Rep. Hendrickson suggested inserting "request that it be returned" instead of leaving language about recalling. Chair Waddoups asked staff to include his suggestion in the language.

Ms. Gay Taylor, General Counsel, OLRGC, explained that the recall provision has never been challenged in Utah. In New York, the legislature recalled a bill and the governor agreed to return it. However, the action was challenged in court and struck down. Ms. Taylor recommended against leaving it in.

Chair Lockhart expressed her preference to remain silent on the issue if the Legislature lacks clear constitutional authority.

Chair Waddoups suggested that staff prepare appropriate wording and the Committees would consider this at a subsequent meeting.

MOTION: Sen. Buttars moved to adopt the rules in Title 4 as presented, with changes. The motion passed unanimously with Sen. Killpack, Rep. Clark, Rep. Dunnigan absent for the vote.

Mr. Fellows said that in the next meeting, staff will have changes to interim rules and other joint rules for the Committees to consider.

Chair Waddoups suggested that members come to the next meeting prepared with suggestions from their caucuses.

Chair Lockhart requested that in the next meeting the Committees separate so that the House Rules Committee can discuss House Rules.

3. Adjourn

MOTION: Rep. Hendrickson moved to adjourn. The motion passed unanimously with Sen. Killpack, Rep. Clark, Rep. Dunnigan absent for the vote.

Chair Waddoups adjourned the meeting at 3:40 p.m.